IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE M.H.S. ANSARI

-

WRIT PETITION NO : 8987 of 1995

Between:

M.RAJU S/O M.VEERAIAH, H.NO.5-5-10 PREMAVATHIPET,
RAJENDRANAGAR, HYDERBAD-500030

..... PETITIONER

AND

1 THE REGISTRAR, A.P. AGRICULTURAL UNIVERSITY,
RAJENDRA NAGAR, HYDERABAD.
2 THE SECRETARY TO GOVERNMENT, FOOD AND AGRICULTURAL

DEPARTMENT.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue any appropriate writ or direction particularly writ of mandamus declaring the action of the respondents in issuing memo 49931/op/93 dt.25-2-1994 and not considering my case as per G.O.Ms.no.612, General administration depatment,dt.30-10-1991 as illegal arbitrary and contrary to section 14 and 16 Hindu law.

Counsel for the Petitioner : MR.D.PRABHAKAR REDDY (NOT PRESENT)

Counsel for the Respondent No.1 : MR.B.SIVA REDDY

Counsel for respondent No.2 : G.P. FOR FOOD AND AGRICULTURE

The Court made the following :

ORDER :

None has appeared on behalf of the petitioner. It is an old matter of 1995.

Heard learned Counsel for respondents and also perused the relevant material on record.

The grievance of the petitioner is with respect to the denial of appointment on compassionate grounds only because he is the adopted son of Late Smt.M.Yellamma who died on 04.12.1992. There is no dispute that under the scheme, if the employee dies in harness, appointment to the ward can be granted on compassionate grounds. Petitioner's case was considered for such appointment and rejected by the impugned order dated 25.02.1994 on the ground as under;

> *"According to the clarification issued vide Annexure to Government Memo.No.618/Ser-A/78 of G.A.Ser-A Dept., dt.17-12-79, the adopted son of a deceased employee does not come under the definition of a child in terms of the G.O.Ms.No. 687/G.A. (Ser-A) dated:3-10-1977."*

In the writ petition it is averred that the aforesaid ground of rejection is not sustainable as in view of the subsequent G.O.Ms.No. 612 GAD, dated 30-10-1991, the adopted son is eligible to be appointed in the place of the deceased employee who died in

harness.

Sri B.Siva Reddy learned Counsel for the 1st respondent-University does not dispute this point. It was however submitted by Mr.Siva Reddy that in terms of G.O.Ms.No.612 GAD, dated 30-10-1991, the adopted son or daughter of the deceased Government servant can be considered for appointment if the adoption had taken place legally at least five years prior to the date of demise of the Government servant.

It was there upon contended by Mr.Siva Reddy that the petitioner is not entitled to the benefit of the said G.O.Ms.No.612 as according to the averments in the writ application petitioner relies upon the “document” of the year 1990. Mr.Siva Reddy submitted that if the adoption document relates to the year 1990, the requirement of the rule of five years prior to death would apply and therefore petitioner can have no benefit of the said G.O.Ms.No.612, as the mother of the petitioner expired on 04.12.1992.

While I find force in the submission made by Mr.Siva Reddy that under the said G.O.Ms.No.612 GAD, dated 30.10.1991 there is a rule requiring the adoption to be at least five years prior to the date of demise of the Government servant, I notice that, that is not the ground based on which impugned proceedings dated 25.02.1994 have been issued. There was no opportunity afforded to the petitioner to place relevant evidence as to his adoption. The impugned order also does not state that the petitioner failed to fulfill the requirement of the five years rule for adoption stipulated in G.O.Ms.No.612 GAD, dated 30.10.1991. On the other hand the sole ground on which the petitioner was denied appointment on compassionate ground is that an adopted son of the deceased employee does not come under the definition of ‘Child’.

As it is by now well settled that the orders impugned have to be tested only on the reasons stated in the order and same cannot be supplemented by further or other grounds, we have to hold that the petitioner cannot be non-suited on the aforesaid ground that he was

adopted less than five years before the date of demise of late Smt.Yellamma. It is also to be noticed that by an interim order dated 14.9.1995, respondent was required to consider the case of petitioner for appointment and in pursuance thereof, by an order dated 18.04.1996, petitioner was appointed as watchman. No doubt Mr.Siva Reddy did bring to the notice of this Court that the aforesaid appointment is subject to the result of the instant writ petition. It is to be noticed that in terms of the interim order, option was granted to the respondents to consider and appoint the petitioner and such appointment having been made, I find no ground to alter the said status and accordingly the writ petition is closed with the direction that the petitioner shall be continued in the service in terms of the order dated 18.4.1996 as a permanent employee appointed on compassionate basis.

Writ Petition accordingly stands disposed of.

10th March 2005. M.H.S.ANSARI, J

ajr

To

1 The Registrar, A.P.Agricultural University, Rajendra Nagar, Hyderabad. 2 The Secretary to Government, Food and Agricultural Department.

3 Two C.D. copies.

4 Two C.Cs. to G.P. for Food & Agriculture, High Court Buildings,

Hyderabad (O.U.T)